

## REMARKS

Claims 1-39 are pending in the application. In this Amendment, claims 1-22, 29-30 and 36 are canceled; claims 23-28, 31-35 and 37-39 are amended; and new claims 40-68 are added.

Claims 23-28, 31-35 and 37-68 currently are pending. In addition, Applicant presents the following remarks regarding the specification, abstract, claims and amendments thereto:

### The Abstract of the Disclosure.

The Office Action includes a form paragraph regarding the abstract of the disclosure but does not point to any deficiencies therein. Applicant has closely reviewed the Abstract of the present application and confirms that it is less than 150 words, does not use terms such as "means" or "comprise", and describes the disclosure clearly and concisely.

### Rejection of Claims 23-39 Under 35 U.S.C. § 103(a).

Claims 8-12 and 20-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rother '879 in view of Austin '810 and further in view of Pillay, U.S. Pat. No. 6,110,950. The rejection is respectfully traversed.

Synergistic Antimicrobial Agent Combinations of the Cited Art. Applicant notes that each of Rother '879 and Pillay '950 discloses a synergistic combination. (Rother '879, ¶ 0047; Pillay '950, *passim*.) One of ordinary skill in the art would not be led by either of these references to separate components of a synergistic combination, as doing so would destroy the synergy created by the combination. Applicant respectfully further asserts that the ordinary skilled artisan would in fact be led away from engaging in "mixing-and-matching" individual components of the synergistic combinations disclosed therein with extraneous compounds. Rother '879 and Pillay '950 fail to teach or fairly suggest the antimicrobial composition recited in the present claims.

The Cited Art Fails To Teach Or Suggest The Discrete Claimed Antimicrobial Composition Of PHMB And A Fungicide. As amended, claim 23 recites an antimicrobial composition requiring a biguanide bactericide and a fungicide.

Relevant to polyhexamethylene biguanide (hereinafter "PHMB") in particular, it is only Austin '810 that mentions PHMB or any biguanide compound. Austin '810 teaches that PHMB may be optionally used *together with the antimicrobial composition of General Formula I.* (Austin '810, col 5, line 37 to col. 6, line 36.) The reference in no way teaches or fairly suggests that PHMB can be used on its own in effectively treating leather to confer an antimicrobial property thereto. Austin '810 likewise fails to teach or suggest that individual components of General Formula I can be separated out from General Formula I and used with PHMB. To do so would be to improperly dissect the essential invention of Austin '810—the antimicrobial composition of General Formula I.

Austin '810 therefore fails to teach or suggest the use of PHMB in combination with the fungicides presently recited.

Pillay '950 Teaches A Patently Distinct Combination At Far Higher Concentrations. Pillay '950 discloses treatment of a leather with a synergistic antimicrobial combination. Applicant notes that Pillay '950 discloses the synergistic combination of propiconazole and 2-mercaptopbenzothiazole; the latter compound is not recited in the instant claims. Pillay '950 therefore fails to teach or fairly suggest the combination as recited in the present claims.

#### CONCLUSION

The claims as currently pending are allowable over the art of record. Applicant respectfully requests that the application be advanced to allowance. Should there be any questions regarding this application or submission, the Examiner is urged to contact the undersigned at the number shown below.

Respectfully submitted,



Cliff D. Weston  
Registration No. 48,307

36845  
Microban Products Company  
11515 Vanstory Drive, Suite 125  
Huntersville, NC 28078  
Phone: (704) 875-0806  
Fax: (704) 875-0810